

REMARKS

Claims 1–13 are pending. An Office Action mailed May 22, 2003 objected to the drawings and rejected Claims 1–13 under 35 U.S.C. § 103. By way of this amendment, Applicant hereby amends the specification, amends Claim 6, and adds new Claims 14 and 15. Pursuant to 37 C.F.R. § 1.111, Applicant hereby respectfully requests reconsideration of the Application.

OBJECTION TO THE DRAWINGS

The Office Action objected to the drawings because they do not include reference signs mentioned in the specification. Applicant hereby amends the specification to remove the noted reference signs thereby rendering this objection moot.

REJECTION OF CLAIMS 1–13 UNDER 35 U.S.C. § 103

The Office Action rejected Claims 1–13 as being unpatentable over Dorsel et al. The Office Action states that Dorsel et al. teaches a detector for detecting an electrical signal from the scanning microscope, and a powering indicator for detecting and displaying average power of the filtered electrical signal. The Office Action states that Dorsel et al. fails to disclose that the filter is for filtering the detected electrical signal and that it would have been obvious to one of ordinary skill in the art to use the filter after the detector instead of before the detector in the device of Dorsel for the purpose of simplifying the optical system and such modification would require only a routine skill in the art. Applicant respectfully traverses this rejection.

Applicant submits that Dorsel et al. fails to teach or suggest anything about generating a signal related to focus of a scanning microscope. Dorsel et al. discloses an apparatus for scanning an array of sample regions carried on a surface of a substrate.

Applicant submits that Dorsel et al. teaches that the bandpass filter 34 (FIGURE 1) is an optical filter, which is then placed in front of the detector 36 (col. 4, lines 14–21). Optical filters are used to select an optical wavelength that reaches the detector and cannot be used to filter an electrical signal. Applicant submits that Dorsel et al. makes no mention of bandpass filters for



25315

PATENT TRADEMARK OFFICE

filtering of time varying electrical signals. Dorsel et al. discloses that the filter may be one of a set of different filters, such as a filter in a filter wheel, with different filters in the set optimized for the scanning of different dyes.

Also, Applicant submits that Dorsel et al. fails to teach or suggest a power indicator for detecting and displaying average power of the filtered electrical signal. Applicant submits that the controller/analyizer unit 24 receives digitized or analog detector signals related to light emission level measured by the photo detector, but fails to teach detecting and displaying average power of the filtered electrical signal.

Thus, Applicant submits that because Dorsel et al. fails to teach a bandpass filter for filtering the detected electrical signal it is the result of hindsight reasoning because the only place that it is taught where a bandpass filter is used for filtering the detected electrical signal is in the Applicant's invention. Therefore, Applicant submits that independent Claim 1 is allowable over Dorsel et. al.

Because independent Claim 6 is similar in scope to allowable independent Claim 1, Claim 6 is allowable for the same reason that makes Claim 1 allowable. Because Claims 2–5 and 7–11 depend from allowable independent Claims 1 and 6, they are allowable for the same reasons that make their independent claims allowable. With regards to dependent Claim 3, Applicant submits that the focusing device 19 is a scanning mirror and performs no focusing function (col. 3, lines 31–47). In addition to the arguments above. Therefore, Claim 3 is allowable for these additional reasons.

With regards to Claim 12, the Office Action states that Dorsel et al. discloses a focusing device 19. Applicant submits that the device 19 in Dorsel et al. is a mirror 19 that is designed to scan the beam in one direction (col. 3, lines 31-42). The mirror 19 as taught in Dorsel et al. does not perform focusing based on the filtered electrical signal. Therefore, Applicant submits that Claim 12 is allowable over Dorsel et al.



25315
PATENT TRADEMARK OFFICE

Independent Claim 14 is similar to Claim 12 and therefore is allowable for the same reasons that make Claim 12 allowable. Because Claims 13 and 15 depend from allowable independent Claims 12 and 14, they are allowable for the same reasons.



25315
PATENT TRADEMARK OFFICE

- 7 -

CONCLUSION

Applicant respectfully submits that all of the claims of the pending application are now in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the rejections, allowance, and early passage through issuance. If the Examiner has any questions, the Examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}



Michael S. Smith
Registration No. 39,563
Direct Dial: 206.749.9888

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

8/8/2003
Date of Deposit


Christine J. Golborne

